

STATE OF MAINE  
PUBLIC UTILITIES COMMISSION

Docket No. 2004-413

July 7, 2004

NORTHERN UTILITIES, INC.,  
Environmental Cost Remediation  
Filings

ORDER

WELCH, Chairman; DIAMOND and REISHUS, Commissioners

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**I. SUMMARY**

We approve Northern Utilities, Inc.'s (Northern) removal of the Meter House at the old Lewiston Manufacturing Gas Plant, as described herein.

**II. BACKGROUND**

A. Stipulation in Docket No. 96-678

On April 28, 1997, in Docket No. 96-678, the Commission approved a Stipulation requiring Northern to file with the Commission and parties<sup>1</sup> to the Stipulation its written evaluation of possible remediation options and recommended solutions for environmental remediation of its former Manufactured Gas Plant (MGP) sites in Lewiston and Portland. In the Stipulation, the parties agreed to a sharing mechanism whereby ratepayers would pay the full environmental remediation costs on a rolling 5-year amortization schedule capped at 4% of the Company's annual adjusted total firm revenues from gas sales and transportation customers, while shareholders would bear carrying costs on all deferred Environmental Recovery Costs (ERC) balances during the 5-year amortization schedule.

The ERCA mechanism allows annual costs to be recovered in rates over a rolling 5-year amortization schedule as they are incurred. Once the scheduled recovery period is complete, the costs drop out of rates.

The parties also agreed upon a process for advance review of proposed remediation work so that the Company's plan could be modified, if necessary, before costs were incurred. Section III (C) of the Stipulation states:

C. Prior to incurring environmental remediation costs, other than preliminary testing and site evaluation for the Portland and Lewiston sites, the Company plans to complete a written

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<sup>1</sup> In *Northern Utilities, Inc., Proposed Environmental Response Cost Recovery*, Docket No. 96-678, the parties were the Office of Public Advocate (OPA) and the Commission's Advocacy Staff.

evaluation of possible remediation options and recommended solutions ("Feasibility Study"). Northern shall file the Feasibility Study with the Commission and the Parties and Northern will meet with the Parties to review the Feasibility Study before it is implemented. Thereafter, Northern will prepare a Remediation Plan for each site. Northern shall file its Remediation Plans and information regarding any material changes in the Remediation Plans with the Commission. Information regarding changes to the Remediation Plans shall be filed no later than July 15<sup>th</sup> of the year in which Northern seeks to begin collecting ERCs associated with such changes.

Section IV, Prior Review of Remediation Plan, of the Stipulation states:

The Parties reserve the right to review the Remediation Plans filed by the Company before any associated costs are incurred and included in any ERCA, except that costs for preliminary testing and site evaluation shall not be subject to such prior review. The purpose of the review will be to allow the Parties an opportunity to determine the reasonableness and prudence of the proposed Remediation Plans or changes thereto, and costs projected to be incurred by the Company. The Parties retain the right to contest the reasonableness or prudence of any aspect of the Company's Remediation Plans, or related activities and costs, and to bring these matters before the Commission for a ruling. The Parties will endeavor to resolve any concerns by consulting with the Company as it develops and implements the Remediation Plans or modifications thereto.

B. Focused Evaluation Effort: Meter House (Building 1)

On June 15, 2004, Northern filed the result of its focused evaluation effort, the Technical Specifications for Building 1 Demolition/Former Lewiston Gas Works Site, Lewiston, Maine, prepared for Northern by MACTEC Engineering and Consulting, Inc. of Portland in April 2004 in accordance with the Stipulation. In its filing, Northern states that the Meter House must be removed both for public health reasons and because Northern needs it removed in order to establish and investigate with the Maine Department of Environmental Protection (MDEP) the broader plan for remediation (Phase II) of the Lewiston MGP site.

The MACTEC Engineering analysis describes in detail the three-story, concrete, brick and masonry building of approximately 1,800 square feet, and provides

demolition activities, pre-demolition activities, incidental work, disposal requirements and licensing obligations. It estimates the demolition of the Building 1 will cost \$50,605.

Northern has received a bid of \$35,500 for the removal of Building 1 from a sole source solicitation. Northern opted not to solicit bids from a wider array of contractors because it has a current Management Services Agreement with the bidder, Clean Harbors, to work on its manufactured gas plant sites, because the project is small, and because, with a streamlined bid process, the work could move forward quickly after receiving Commission approval. Northern asserts that its engineering consultant MACTEC had reviewed the bid and found it reasonable. Northern further states that Clean Harbors has worked with Northern reliably in the past, has the necessary equipment and personnel, and has its insurance and safety plans in place. Finally, Clean Harbor's bid was substantially lower than estimated by Northern's engineering consultants.

### III. CONCLUSION

Based upon our review of the filing and the focused engineering evaluation, we conclude that Northern has properly evaluated the need to remove the Meter House and the associated costs. Although under most circumstances it is preferable not to use a sole source solicitation to select a contractor, Northern's decision to use Clean Harbor appears reasonable in this circumstance. Advisory Staff reviewed both the bid and the engineering study and determined that they were comparable in the amount of materials to be removed. Accordingly, we approve Northern's proposed removal of the Meter House (Building 1) at the former Lewiston MGP site.

Dated at Augusta, Maine, this 7<sup>th</sup> day of July, 2004.

BY ORDER OF THE COMMISSION

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Dennis L. Keschl  
Administrative Director

COMMISSIONERS VOTING FOR:      Welch  
   Diamond  
   Reishus

## NOTICE OF RIGHTS TO REVIEW OR APPEAL

5 M.R.S.A. § 9061 requires the Public Utilities Commission to give each party to an adjudicatory proceeding written notice of the party's rights to review or appeal of its decision made at the conclusion of the adjudicatory proceeding. The methods of review or appeal of PUC decisions at the conclusion of an adjudicatory proceeding are as follows:

1. Reconsideration of the Commission's Order may be requested under Section 1004 of the Commission's Rules of Practice and Procedure (65-407 C.M.R.110) within 20 days of the date of the Order by filing a petition with the Commission stating the grounds upon which reconsideration is sought.
2. Appeal of a final decision of the Commission may be taken to the Law Court by filing, within **21 days** of the date of the Order, a Notice of Appeal with the Administrative Director of the Commission, pursuant to 35-A M.R.S.A. § 1320(1)-(4) and the Maine Rules of Appellate Procedure.
3. Additional court review of constitutional issues or issues involving the justness or reasonableness of rates may be had by the filing of an appeal with the Law Court, pursuant to 35-A M.R.S.A. § 1320(5).

Note: The attachment of this Notice to a document does not indicate the Commission's view that the particular document may be subject to review or appeal. Similarly, the failure of the Commission to attach a copy of this Notice to a document does not indicate the Commission's view that the document is not subject to review or appeal.